

**BOISE, WEDNESDAY, JANUARY, 18, 2012, AT 8:50 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**PRINCRAFT PRESS, INC.,**

**Plaintiff-Respondent-Cross Appellant,**

**v.**

**SUNNYSIDE PARK UTILITIES, INC., an Idaho  
corporation, DOYLE BECK, an individual, and  
KIRK WOLF, an individual,**

**Defendants-Appellants-Cross  
Respondents,**

**and**

**SUNNYSIDE PARK OWNERS ASSOCIATION,  
INC., an Idaho corporation, and SUNNYSIDE  
INDUSTRIAL AND PROFESSIONAL PARK,  
LLC, an Idaho limited liability corporation,**

**Defendants.**

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**PRINCRAFT PRESS, INC.,**

**Plaintiff-Respondent,**

**v.**

**SUNNYSIDE PARK UTILITIES, INC., an  
Idaho corporation,**

**Defendant-Appellant,**

**and**

**SUNNYSIDE PARK OWNERS ASSOCIATION,  
INC., an Idaho corporation, and SUNNYSIDE  
INDUSTRIAL & PROFESSIONAL PARK, LLC,  
an Idaho limited liability company, DOYLE  
BECK, an individual and KIRK WOLF, an  
individual,**

**Defendants.**

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**Docket No. 36556**

**Docket No. 36567**

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Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County, Hon. Joel E. Tingey, District Judge.

Fuller & Carr, Idaho Falls, for appellant Sunnyside Park Utilities, Inc.

Smith, Driscoll & Associates, PLLC, Idaho Falls, for appellants Beck and Woolf.

Beard, St. Clair, Gaffney, PA, Idaho Falls, for respondent.

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This case arises from a dispute regarding the septic system and sewer connections serving Sunnyside Industrial Park, LLC (the industrial park). Sunnyside Park Utilities (SPU) provides water and sewer services to the industrial park and Doyle Beck and Kirk Woolf are, respectively, the Secretary and President of SPU. Printcraft Press, Inc. (Printcraft) is a printing business that occupies a building in the industrial park. In 2004, via its principal, Travis Waters, and a development company, Printcraft entered a ten-year lease for property in the industrial park. The dispute in this case revolves around the failure of Beck, Woolf, and SPU to disclose limitations on the septic system, including the amount of sewage the septic system could handle and its inability to handle some of the chemicals used in the printing business.

After initially using the septic system, Printcraft was disconnected from the system in December 2006. Printcraft sued SPU, Beck, and Woolf (collectively the defendants) for breach of contract, fraudulent nondisclosure, and fraud. At a jury trial, the jury found that the defendants owed Printcraft a duty to disclose the limitations of the system and failed to do so. As a result, the jury found that Printcraft suffered \$990,000 in damages. The trial court denied the defendants' motion for judgment notwithstanding the verdict (JNOV) and entered judgment in favor of Printcraft on March 31, 2009. SPU, Beck, and Woolf timely appealed and Printcraft timely cross-appealed. However, in August 2009, SPU filed a renewed motion for relief from judgment under Idaho Rule of Civil Procedure 60(b), asserting newly discovered evidence regarding Printcraft's subsequent connection to the Idaho Falls sewer system. The district court found that the newly discovered evidence satisfied the requirements of I.R.C.P. 60(b) and granted a new trial on the issue of damages.

On appeal the defendants argue that they had no duty to disclose, that any failure to disclose did not lead Printcraft to believe any fact that was false, that the exclusion of SPU's jury instructions were improper, and that the district court erred in denying their motion for JNOV as there was not sufficient evidence to support the jury's determination of damages. In turn, Printcraft's cross-appeal argues that the district court erred in limiting the potential bases for the defendants' duty to disclose, that Printcraft's breach of contract claim was improperly dismissed, that the subsequent Rule 60(b) motion was improperly granted, and that the judge erred in denying Printcraft's request for attorney fees.

**BOISE, WEDNESDAY, JANUARY 18, 2012 AT 11:10 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

<b>THOMAS CRELLIN MANNING and JULIE</b>	)	
<b>ANN MANNING, husband and wife,</b>	)	
	)	
<b>Plaintiffs-Appellants,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>WILLIAM J. CAMPBELL. an unmarried</b>	)	<b>Docket No. 37728</b>
<b>individual, and NAOMI LOUISE</b>	)	
<b>CAMPBELL, an unmarried individual,</b>	)	
	)	
<b>Defendants-Respondents.</b>	)	
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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Ronald J. Wilper, District Judge.

Banducci Woodard Schwartzman PLLC, Boise, for Appellants.

Ellsworth Kallas Talboy & DeFranco PLLC, Boise, for Respondents.

Thomas and Julie Manning appeal the district court's denial of their request to move the location of an existing easement to another portion of their property.

The Mannings and William Campbell have been neighbors in Boise's North End since 2008. That year the Mannings purchased and moved onto the property adjacent to the western portion of William Campbell's land. Although William Campbell shares an interest in his property with his mother, Naomi Campbell, she does not reside on the property.

The Campbell property is completely surrounded by other properties and has no access to roads. As a result, the Campbell property contains an easement that allows William to access North 21<sup>st</sup> Street by using a driveway located on southeast corner the Manning property.

The easement was expressly created in 1952 when Frank and Ida Mattison, previous owners of the Campbell property, purchased from Paul and Mary Boyd, previous owners of the Manning property, the right to use a driveway on the Manning's property to access the Campbell property. While the agreement does not define where the driveway is located, it does limit the Campbell property's use of the Manning land to an area "far enough to allow" the Campbell property to access North 21<sup>st</sup> Street.

In 2009, the Mannings filed this action seeking quiet title, which would revoke the Campbell property's right to use Manning's land to access North 21<sup>st</sup> Street. In the alternative, the Mannings sought a declaratory judgment that would allow them to move the access point and install a fence over the current driveway. The Mannings claimed the current driveway allows William too much access of their property when he goes to and from his property. The trial court determined that the Campbell property does have a right of access and refused to allow the Mannings to move the point of access.

Upon appeal, the Mannings argue that the trial court erred in determining the location of the easement and erred in refusing to change the location of the easement.